



## **Juvenile Law Commission**

**August 11, 2004**

### **Commission Members Present**

Katie Humphreys  
Pam Cline  
Steve DeMougin  
Roger Duvall  
Ralph Foley  
Glenn Howard  
Larry Landis  
Viola Taliaferro  
Diane WeissBradley

### **Agency**

JLC Chair  
DOC  
FSSA  
Scott County Prosecutor  
House of Representatives  
Senate  
Public Defender Council  
Monroe Circuit Court  
Lake Co. Juvenile Court Probation

### **Commission Members Absent**

Melvin Carraway  
Susan Carpenter  
Bruce Donaldson  
Robert Kuzman  
David Long  
Justice Robert Rucker  
Bob Marra  
James Payne  
Chessie Smith-Hacker  
Robin Tew  
Connie Windhorst

### **Agency**

Indiana State Police  
State Public Defender  
IJJTF  
House of Representatives  
Senate  
Indiana Supreme Court  
IDOE  
Marion Superior Court, Juvenile Div.  
Youth Representative  
ICJI  
Parent Representative

### **Staff Present**

Micah Cox  
Nikki Kincaid

### **Agency**

ICJI  
ICJI

### **Contract Staff Present**

Laurie Elliott  
Jim Hmurovich  
Michelle Tennell

### **Agency**

Youth Law T.E.A.M.  
Staff  
ICJI

### **Guests**

Allison Wharry  
David P. Reynolds  
Cathy Graham  
John Link  
Monique Busch

### **Agency**

IHHA  
State Budget Agency  
IARCCA  
Crossroad  
IARCCA

- I. Called to Order:** 10:40 a.m.  
By: Katie Humphreys, Chair of Juvenile Law Commission.
- II. Minutes of July 14, 2004 meeting were distributed via e-mail and mail prior to meeting and distributed via handout for review.**

Due to the lack of a quorum, consensus was reached to approve the July minutes with the deletion of Steve DeMougin as having been in attendance as he was absent from the July 2004 meeting.

- III. JLC Subcommittee Reports**
- **Planning, Policy & Systems Development Subcommittee**
  - **Identification, Assessment & Service Referral Subcommittee**
  - **Information Sharing Subcommittee**
  - **Integrative Funding Subcommittee**

Chair recognized Allison Wharry, Co-Chair of the Planning, Policy & System Development Subcommittee (PPSD).

Ms. Wharry, speaking on behalf of her co-chair, Judge Steve David, and representing the PPSD subcommittee, gave the commission members an update of the work of the subcommittee to date.

Ms. Wharry reiterated that the PPSD subcommittee realizes that each of the counties throughout Indiana have different policies and practices within each of their systems. With this in mind, the PPSD subcommittee has been focusing on the following:

A. The development of a subcommittee of the PPSD subcommittee to research the need for specific recommendations regarding when a child is competent to stand trial, how this is determined, at what level and during what time frame. This issue will specifically involve judges and may require training and education surrounding this issue. However, the subcommittee does not feel that any further legislation will be required.

Chair asks whether it would be appropriate for there to be an issuance of guidelines which would require the approval of an association of Indiana judges. Nikki Kincaid and Allison Wharry both agree that this will be necessary and that policy development of administrative rules may be appropriate as well. This subcommittee will also work with FSSA whom, through DMHA, has a workgroup looking into this subject. The Indiana State Bar Association is also looking into mental health issues surrounding children within the judicial system. The PPSD will build on the work of these groups.

B. Should there be a change in Indiana Law from a two-tier to a three-tier juvenile justice system?

Chair recognizes Rep. Foley who states he hopes some flexibility will remain with regard to the system. He refers to the fact that Rep. Kuzman had voiced concern during previous JLC meetings regarding the difference in the way, for instance, juvenile alcohol offenders are treated between the juvenile and adult court systems.

The Chair proposes that some sort of a triage system be evaluated.

Chair recognizes Pam Cline who agrees that a uniform risk assessment system is critical to obtaining positive outcomes.

Chair acknowledges Judge Taliaferro who believes that more guidance is needed from the State legislature regarding how detention in the juvenile justice system should be used in Indiana.

Nikki Kincaid concurred that the subcommittee is concerned about the potential overuse of detention and the lack of uniform agreement/understanding across the State regarding the purpose of juvenile detention.

Judge Taliaferro maintains that the State has a different duty to children than adults and it is important to distinguish between the two.

Chair recognizes Roger Duvall who states that Indiana really has two different types of juvenile justice systems as it stands today--those counties that have juvenile detention facilities and those which do not. He contends that more children are detained in counties with detention centers because they have a place to put them. Then, when the county budget is spent down toward the end of the fiscal year, detention also decreases.

All commission members agree that it is inherently wrong that children in different counties are treated differently based on the county's resources. Decisions should be consistent throughout, with equal access to a continuum of different services ranging from in home, community-based services, to out of home placement and detention.

C. Would it be beneficial if all traffic offenses, infractions, etc. involving youth under the age of 18 be solely under juvenile court jurisdiction?

**Under consideration.**

D. Should Indiana Law mirror the federal Juvenile Justice and Delinquency Prevention Act so Indiana will be in compliance with federal law?

**Under consideration.**

E. Should there be a right to bail for children in the Juvenile Justice System? Chair recognizes Larry Landis who asks why there should not be a right to bail. He is concerned that detention may be used as a social control. Detention should not be used as a “babysitter.” Regarding *In Re Gault*, there is a presumption of innocence.

A bail matrix system was then discussed for use in making detention determinations. This may create more objective detention decision-making. A matrix would, however, still require a discretionary element. It would still make a distinction between the juvenile justice and the criminal justice systems.

Allison Wharry responds that the subcommittee took into consideration the fact that children normally do not have their own money. Therefore, who would be allowed to bond out the child; a friend, parent, anyone? If the child is bonded out before the judge has a chance to review the case, there is a potential that the child would be bailed out in order to “hide a secret.” This would definitely circumvent the court’s ability to intervene.

Chair recognizes Diane WeissBradley who states that there is also a potential for inequality based on a child’s financial resources. Those who are indigent would be at a distinct disadvantage.

Judge Taliaferro interjects that approximately 50% of the parents in her court are agreeable to having a placement of a child who is out of control, until they are under control. She does believe that the Court should be required to make written findings whether other alternatives to detention have been considered when placing a child in detention.

Larry Landis respectfully requests that the subcommittee reconsider the bail issue. He believes an important safeguard regarding children’s rights is being taken away. Without due process rights, being labeled with a conviction as a juvenile is potentially harmful as an adult. The same policy arguments made here with regard to children apply to adults as well.

F. Should there be a right to a jury trial for children in the juvenile justice system?

**Under consideration.**

G. Should there be time-specific limitations regarding juvenile dispositions? All commission members agree that without these limitations, there is a great potential for children to be languishing within the system.

Judge Taliaferro states that the current statute which limits the length of detention to 120 days is not clear enough and gives a lot of latitude for individual interpretation. Is the 120 day limit for all charges at one disposition? Is

concurrent or consecutive sentencing to be used? Can each individual delinquent act be adjudicated for 120 days even if they are all committed during the same arrest? Further, how long can a child be kept on probation before they must return to court? These types of situations need more clarification and should be addressed. Judge Taliaferro suggests looking to the “runaway model”. She believes the crime delinquent could benefit from parameters such as this.

H. School issues to be addressed include suspension, expulsion and home bound practices as well as mandatory sentencing.

Senator Glenn Howard suggests that we have slowly taken away all alternatives for people on probation, on parole as well as on suspension from school. It is his contention that we are currently making criminals out of the child before we even get them out of school. Senator Howard recommends in-school suspension. It will keep the children off of the street and avoid the potential for them to participate in criminal activities when they could be under the school’s supervision.

Chair concurs and states that prevention and intervention should be the basis through which children are served with the realization that the community must also be protected and served.

- I. Change of judge issue in CHINS versus delinquency cases.  
The subcommittee recommends that this should remain the same as current law.
- J. Consistency of laws pertaining to CHINS and delinquents.  
Subcommittee suggests that this could be looked at as a civil versus criminal type case for analysis; similar to the way adult cases are analyzed.

The Chair thanked Ms. Wharry for her work and recognized the other members of the subcommittee as well as staff.

Chair recognized David Reynolds, Co-Chair of the Integrative Funding (IF) Subcommittee.

David Reynolds, speaking on behalf of the co-chair, Mr. Fistrovich, as well as the IF subcommittee stated that the subcommittee had reviewed the Guiding Principles set forth previously.

Jim Hmurovich, JLC lead staff to the subcommittee, put together a composite of funding scenarios to facilitate the group discussion. Five to six topics/themes were identified. The resounding theme of the subcommittee was the need to rid the State of the funding silos. This committee must be able to address what funding mechanisms for children and families services are currently in place and assess their effectiveness.

Key Issues:

- \* Local leadership is extremely important to the success of any endeavor
- \* Identification of what the State's role in funding should be? Should it retain a technical assistance/data collection role, or should it be more of a "Role on High"?
- \* Are there any other successful State programs being sought to look to as a "model"?
- \* Funding of services need to incentivize prevention and early intervention efforts. These typically have the most successful, effective and productive outcomes.
- \* Maximize Federal dollars. There is a sense among the members that federal monies are not being maximized due to funding silos. There is a need to "take the blinders off" and look at a broader perspective of available, yet to be identified funding sources.

Chair recognizes Rep. Foley who asks whether there is a restriction placed by the Federal government on their monies and for what purposes they may be used.

Chair states that there are, indeed, restrictions on some federal dollars and Rep. Foley's point is well taken. However, if there is a restriction on a certain pot of federal dollars, the state could make a recommendation to a congressional delegation for consideration of new and promising programs.

Chair recognizes Steve DeMougin who states that there are caps for entitlements as well as caps for block grants.

Nikki Kincaid shared information with the JLC that she has been made aware by a SAMHSA representative that some people from the local level are filtering information regarding this issue to the national level decision makers for their review and consideration. Local/State programs are then able to ask for an exception to funding restrictions for innovative programming.

Chair thanked the subcommittee members and staff for their work.

Chair recognized Cathy Graham and Natalie Auberry, from the Information Sharing (IS) Subcommittee speaking on behalf of the IS subcommittee, as they gave an update of the accomplishments of this subcommittee. To date they have looked at Best Practice Models within the State including the SHOCAP program. The subcommittee is getting further information on eight other programs viewed as potential models. There was also an overriding view of subcommittee members that sometimes mandates squash creative ideas.

The four topics under review by the subcommittee currently are:

1. Parental accountability/involvement—how to give them information as well as gain their cooperation.
2. Technological issues—Expertise such as the JTAC system are being reviewed.
3. False barriers—The subcommittees will look for areas of permissiveness for information sharing while still respecting the rights of families. The subcommittee wishes to “Blow Open” the myths and misconceptions regarding the sharing of information.
4. Information Sharing of FERPPA and the Juvenile court.

Ms. Aubrey, co-chair, echoes the thoughts of others that there appears to be different county juvenile justice systems—those with detention facilities and those without. She further states that there are even more systems and ways in which information is shared when doing the business of serving children and their families who need assistance.

The subcommittee’s overriding theme remains that the outcomes for children’s and family’s services should not be dependent on the availability of information. The subcommittee further identified the inextricable connections between the subcommittees created by the Juvenile Law Commission and cautions all to make sure that no silos are built between our own subcommittees.

Chair thanked the subcommittee members and staff for their work.

Chair recognized Laurie Elliott, staff for the Identification, Assessment and Service Referral (IASR) Subcommittee, speaking on behalf of Janet Corson, Co-Chair and Co-Chair, Judge Susan Henderson, as well as the IASR subcommittee members.

During the second meeting of this subcommittee, a framework was developed of how the process should work with the goal of assuring that each child receives the services needed.

A Statement of Recommendations was developed and reads as follows: It is recommended that the Legislative Codes of all systems serving children and families contain a common purpose clause. It is recommended that there be a standard process that is followed to screen, assess, and provide necessary services to children and families. All children entering a system (i.e. the juvenile justice, child welfare, mental health, and education systems) shall be screened, and when appropriate, shall be referred on for further assessment and needed services. An evaluation of outcomes of the services provided will be developed for the

purposes of identifying additional service needs and/or the successful completion of services.

Further Screening, Assessment and Implementation Action Steps as well as estimated costs for these recommendations have also been developed in a rough draft format.

Future meetings of the subcommittee will address issues such as instruments which could be recommended for use in screening and assessment, as well as specific standards that should be met. Barriers to implementation as well as the recommendation of implementation timing are issues still under discussion.

Issues of further discussion by the subcommittee :

Values/criteria for the screening instrument

Life domains that should be screened

Standards/expectations for system follow-through

Data Collection

Evaluation of outcomes

Chair recognizes Steve DeMougin who states that seven Indiana counties are currently involved in a Pilot program developed through the Policy Academy at DFC. Their findings will be of great interest in this regard.

Chair recognizes Diane WeissBradley who reminds all that while we identify children for potential service opportunities, it is equally important to involve and empower the parents of these children. We must guard against “taking over and giving the impression that we know more than the parents do.”

Follow through may be a key element to the success of any service program for children and families. We must allow for a parental “learning curve” to become familiar with the issues facing their children and family. We must act as partners with the family by offering services and making them low-cost or free as often as possible.

Judge Taliaferro interjects that we must accept the fact that some parents must be told what to do and that judges must be given the authority to require their participation, whether willing or not.

Diane WeissBradley closes with the idea that school systems should move away from being viewed as “punishment oriented or dictatorial.”

Chair thanked Ms. Elliott, the subcommittee members and staff for their work.

The Chair thanked all subcommittees for the work that is being done and looks forward to learning of the progress each has made by the September 2004 JLC meeting.



#### **IV. Presentation:**

- **The IARCCA Outcome Project**  
**Cathy Graham, Executive Director, IARCCA; Monique Busch, Outcome Project Coordinator; John Link, Chairman, Outcome Project Committee**

The Chair introduced Cathy Graham, Executive Director of the Indiana Association of Residential Child Care Agencies.

Ms. Graham gave an overview of the results of the 2003 IARCCA Outcome Project as well as a Six-Year Comparison. The Executive Summary of this report as well as the IARCCA Outcome Project for Indiana Special Report II were distributed to all JLC members.

Ms. Graham then gave the floor to John Link and Monique Busch for the presentation of what the impact on children and families has been from the services they have received during this project period.

Over 50,000 children in Indiana were studied during the last six years regarding the accountability in Child Welfare Services. Areas of study included Clinical Outcomes, Functional Outcomes, Effectiveness of Placements (including permanency planning), and Consumer Satisfaction. A Child Risk Factor Survey was completed at each intake which included twenty-three items that calculated the risk score that summed up the number of major risk factors each child faced at intake. The results of the survey revealed that certain risk factors highly correlated with failure of placement. "If these occur, then the child is likely to reoffend." Delinquent path recipients did remarkably better than CHINS path service recipients using the same measurements. These factors measure children in programs against a statewide aggregate and indicate that victims of physical, sexual, and domestic abuse as well as those who repeat grades in school, are Special Education students and those children who use psychotropic medications are much less likely to have successful outcomes from treatment.

Cathy Graham and John Link cautioned JLC members to keep in mind, however, that the term "successful outcomes" may be somewhat misleading. It is their contention that it is not a matter of how the child failed but rather how the system failed the child.

Chair expressed her gratitude to Ms. Graham for her presentation as well as that of the IARCCA Outcome Project staff.

#### **VI. New Business**

Date: Wednesday, Sept. 8, 2004  
Time: 10:30 a.m. — 12:00 p.m. (Indianapolis Time)  
Location: TBA

Meeting adjourned by Chair at 12:10 pm.